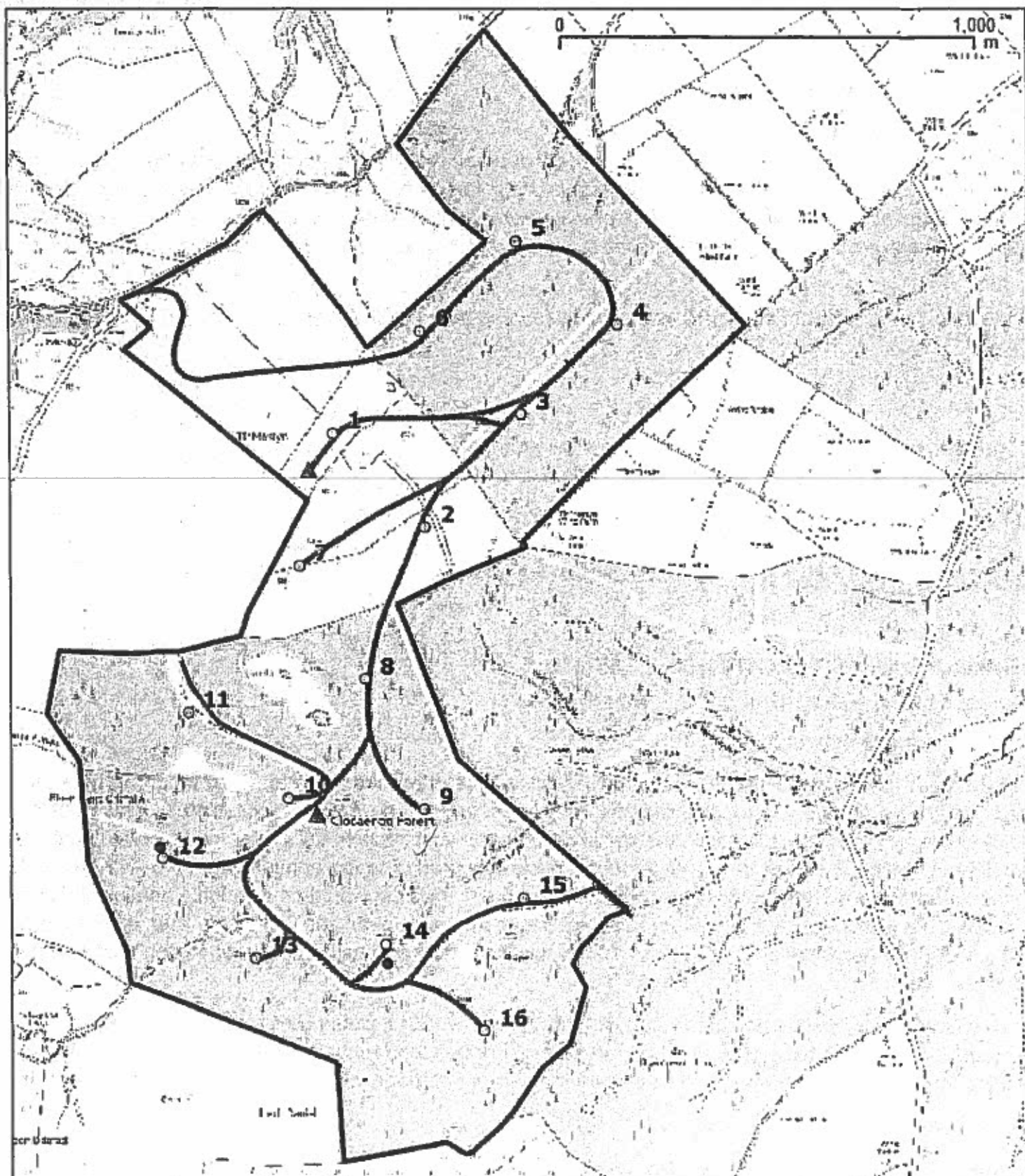


BRENIG WIND FARM

SITE LAYOUT PLAN

FROM APPLICATION DOCUMENTS



- APPROVED LOCATION OF TURBINES
- PROPOSED RE-SITING OF TURBINES 12 AND 14

WARD : Llanrhaeadr Yng Nghinmeirch

WARD MEMBERS: Councillor Joseph Welch

APPLICATION NO: 25/2015/1164/ PS

PROPOSAL: Variation of condition number 3 of planning permission ref 25/2007/0565 to allow turbine number 12 and relevant spur road to be permitted a 30m micro-siting allowance and turbine 14 and relevant spur road to be permitted a 49m micro-siting allowance

LOCATION: Land East of Llyn Brenig Nantglyn

APPLICANT: Mr Oliver Texier, Brenig Wind Limited

CONSTRAINTS: B Flood Zone
SSSI
PROW

PUBLICITY UNDERTAKEN: Site Notice – Yes
Press Notice – No
Neighbour letters - No

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Member request for referral to Committee
- Community Council objection – officer recommendation to grant

CONSULTATION RESPONSES:

LLANRHAEADR YC COMMUNITY COUNCIL

“Llanrhaeadr Community Council objects to the above planning application for the following reasons:-

The developers are asking for both turbines to be moved significantly beyond the 20 metre allowance.

These proposed changes will have a potentially significant negative impact of noise from the turbines. The current assessments will no longer be valid.

Paragraph two on page three of Natural Powers' covering letter state that "there will be no significant additional impacts on the consented noise limits at nearby properties". This sentence lacks any robust evidence or qualification.

As the proposal goes beyond the 20 metre variable allowance, and no rigorous assessment of the visual and noise impact has been undertaken, we urge DCC not to permit development until this robust evidence is in place.

I trust DCC will bear in mind the cumulative scale and impact of such developments in the area.”

NATURAL RESOURCES WALES

No objection to the variation. The repositioning of the turbines will ensure there is no adverse effect on the environment

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Pollution Control Officer

With regards to the additional information submitted by the applicant, in relation to the adjustment in position of two turbines at the above scheme, accepts the conclusions.

Comments that there are noise conditions already attached to the scheme which still apply and the adjustment in position is unlikely to affect this.

Flood risk Manager

No further comments are required from a drainage perspective. Variation will be of benefit to the natural drainage system on the site.

Biodiversity Officer

Variation would not have an inherent, significant impact on the local ecology. Works resulting in true peat excavation must provide suitable on site storage and re-use for the material.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 10/02/2016

REASONS FOR DELAY IN DECISION (where applicable):

- Referral to committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

- 1.1. The application seeks the Council's agreement to the variation of a condition imposed on the planning permission granted in April 2009 for the development of a 16 turbine wind farm on land east of Llyn Brenig. The permission was granted under Code No.25/2007/0656/PF. Work on the implementation of the permission has commenced, in the form of the construction of the site access onto the public highway.

The condition in question is No 3, which is worded as follows:

3. The location of the turbines and ancillary structures such as anemometer masts, and the access tracks, shall be in the positions indicated on the submitted plans, subject to variation of the indicated position of any turbine or any track on the plans by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority."

The reason for the condition was : "For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development."

- 1.2. In relation to turbine 12, the application for the variation follows detailed site investigation works revealing problems with the steepness of the topography in the vicinity of the turbine. The variation now sought is a 30m tolerance for the siting of the turbine, removing the need for mass excavations with steeply sloping or benched embankments.
- 1.3. In relation to turbine 14, site investigation has revealed deep peat in and around the approved position of the turbine. This would require deep excavation, and there are concerns over ground stability from the movement of the heavy machinery required to remove the storage mounds, and the disturbance to natural drainage systems. The variation sought is a 49m tolerance for the siting of the turbine, so the turbine can be positioned in shallower peat.
- 1.4. The application is accompanied by a short Design and Access Statement and a cover letter explaining the reasons for the application to vary condition 3, in respect of turbines 12 and 14. The documents state the revisions would not result in additional impacts on the consented noise limits at nearby properties, and that they would both be outside that 50m

hydrological buffer zone of any water features, the 30m buffer zone of any archaeological assets, or the 100m ecological exclusion area shown on the Constraints to Site Design figure in the Environmental Statement. It is suggested that the micrositing sought would deliver a preferable environmental outcome than the originally consented scheme.

- 1.5. In response to questions over the potential for additional noise impact from the turbines, the applicant's noise consultant has re-run the noise model for the site with the 2 turbines in their proposed positions, and the information has been forwarded to the Pollution Control Officer. The agent states the results of the resiting on noise levels at nearby properties are negligible and in some places have gone down. The agent has also confirmed that the ground level at the base of the respective turbines would be 5m higher for turbine 12 and 0.5m higher for turbine 14 than it would have been for the turbines in their original positions.
- 1.6. The agent has also indicated that most wind farms in the UK have a micrositing allowance of 50m, which was the tolerance applied in the consent for the Clocaenog windfarm, and the application here is not requesting something which is over and above industry standard.

2. Description of site and surroundings

- 2.1. The site is on and around the hilltop of Tir Mostyn, and immediately to the west of the existing 25 wind turbine development in this location, which stretches to Foel Goch to the south. The northern tip of Llyn Brenig lies under 1km to the west.
- 2.2. The nearest village to the site is Nantglyn, some 3km to the north. Denbigh is 11km to the north east, and Ruthin 13km to the east. There are private dwellings to the immediate north of the site, and others beyond the Tir Mostyn / Foel Goch wind farm to the east and south.
- 2.3. The approved turbine site stretches over approximately 2.5km from north to south, and 2km from west to east. It includes parcels of land which have previously been afforested, and open upland grazing land around Tir Mostyn itself, down to the B4501. Tir Mostyn is shown at an elevation of 492m above sea level. .
- 2.4. There is a public footpath running across the site from the Tir Mostyn windfarm in the north east corner of the site, to the Boncyn Arian Tumulus next to Llyn Brenig. The Clwydian Way footpath runs around part of the southern boundary of the site, to the south east of turbine 16.

3. Relevant planning constraints/considerations

- 3.1. The site is in open countryside outside any development boundaries approved in the Local Development Plan.
- 3.2. It lies within the boundary of the Clocaenog Forest Strategic Search Area identified in Technical Advice Note 8 (TAN 8), i.e. the area deemed suitable for large scale wind turbine development.
- 3.3. The site is not within an area with a statutory landscape designation. The nearest boundary of the Clwydian Range AONB is some 14km to the east. The nearest boundary of the Snowdonia National Park is some 14km to the west. These areas are shown on one of the plans at the front of the report.
- 3.4. In terms of non-statutory designations, the site lies within the Denbigh Moors Landscape of Special Historic Interest, and to the west of, but outside, the Vale of Clwyd Landscape of Outstanding Historic Interest. There are Sites of Special Scientific Interest to the west and south of the site boundary
- 3.5. As noted above, part of the Clwydian Way circular long distance trail runs along the southern boundary of the application site, and a public footpath runs across the site from the north east corner to the tumulus next to Llyn Brenig.

4. Relevant planning history

4.1. The main permission of relevance to the application is the 2009 consent for a 16 turbine development on the site, referred to in other parts of the report.

4.2. Other relevant background information

None.

5. DETAILS OF PLANNING HISTORY:

5.1. Application 25/2007/0656

“Construction and operation of a wind farm comprising of sixteen wind turbines with a maximum tip height not exceeding 100m, along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operational infrastructure”

Land East of Llyn Brenig Nantglyn

Granted 06/04/2009

The developers have received approval of a number of Approval of Condition applications in 2013 and early 2014 in relation to this permission and have undertaken works in connection with the access in order to commence the development.

6. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

6.1. Denbighshire Local Development Plan (adopted 4th June 2013)

Policy VOE1 – Key areas of importance

Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty

Policy VOE5 – Conservation of natural resources

Policy VOE 6 – Water management

Policy VOE9 – On-shore wind energy

6.2. Supplementary Planning Guidance

Archaeology

Nature Conservation and Species Protection

6.3. Government Policy / Guidance

UK level

Energy Acts 2008 – 2013

Climate Change Act 2008

Renewable Energy Strategy 2009

Renewable Energy Roadmap 2013

The Carbon Plan 2011, updated 2013

Utilities Act 2000 and the Renewables Obligation

Welsh Government level

One Wales: One Planet 2009

Climate Change Strategy in Wales 2010

Welsh Energy Policy Statement 2010

Planning specific documents

Planning Policy Wales Edition 8, 2016

Planning Implications of Renewable and Low Carbon Energy (Practice Guidance 2011)

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 6 Planning for Sustainable Rural Communities (2010)

TAN 8 Planning for Renewable Energy (2005)

TAN 11 Noise (1997)

TAN 15 Development and Flood Risk (2010)

6.4. Other material considerations

Denbighshire Landscape Strategy (2003) / LANDMAP

Conwy and Denbighshire Landscape Sensitivity and Capacity Assessment for Wind Energy Development, Final Report May 2013

ESTU R 97 and 'A good practice guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise' (IOAGPG)

7. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 8, January 2016 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

7.1. The main land use planning issues in relation to the application are considered to be:

7.1.1. Principle

7.1.2. Planning history - relevance of the existing planning consent

7.1.3. Landscape and visual impact

7.1.4. Noise

7.1.5. Shadow flicker

7.1.6. Residential amenity

7.1.7. Ecology

7.1.8. Highways

7.1.9. Aviation and Radar

7.1.10. Heritage interests

7.1.11. Hydrology / water supply/ flooding / surface water

7.2. In relation to the main planning considerations:

7.2.1. Principle

The principle of the development of a windfarm in this location has already been accepted by the grant of permission in 2009. The application seeks solely to secure the variation of one of the conditions imposed on that permission to allow for the minor relocation of 2 of the 16 approved turbines.

The planning system allows for the submission of applications for variations of conditions imposed on planning permissions. Such applications have to be considered on their respective land use planning merits and with regard to normal planning considerations. These are set out in the remainder of the report.

Factually, the site is within Clocaenog Forest Strategic Search Area (SSA 'A') where national planning policy supports the principle of large scale wind energy development.

LDP Policy VOE 9 supports the principle of on shore wind turbine development subject to assessment of environmental and sustainability impacts. The Brenig Wind Farm proposal falls within the Strategic / Large Scale development category in the policy, involving a development with a generating capacity over 25MW. The policy states Strategic / Large Scale developments will be supported within the Clocaenog Strategic Search Area.

7.2.2. Planning history -relevance of the existing planning consent

The existence of a commenced planning permission for a 16 turbine development on

the site is a significant material planning consideration relevant to the weighing up of the application. The developers can legitimately proceed to implement the 2009 permission for the erection of the sixteen 100m high turbines. The application is not an opportunity to reconsider the principle of the wind farm development.

Realistically, from viewing the material relating to the application, the key matters to address here are whether there are additional impacts likely to arise from the proposed revisions to the turbine locations, compared to those arising from the approved location. These are reviewed in the detailed impact sections of the report which follow.

7.2.3. Landscape and visual impact

- Local Development Plan policies

Policies relevant to the visual and landscape impact associated with wind energy development are VOE 9 and VOE 10. These policies require due consideration of the localised effects of development, including cumulative impacts on the surrounding area and community, which involves assessment of landscape and visual impact. With regards to sub-local authority scale developments, VOE 9 specifically requires consideration of the potential impact on the setting of an Area of Outstanding Natural Beauty (AONB) and other designated sites, and the text of the policy indicates that outside the SSA, sub local authority scale developments will be considered where they fall outside designated areas or the setting of the designated areas; and that turbine height will be limited to protect landscape impact.

Policy VOE 1 applies to Key Areas of Importance and requires development proposals to maintain and, wherever possible, enhance these areas for their characteristics, local distinctiveness, and value to local communities in Denbighshire, including local areas designated or identified because of their natural landscape or biodiversity value. Key Areas of Importance are stated in the policy as statutory designated sites for nature conservation, areas designated or identified because of their natural landscape or biodiversity value; sites of built heritage; and Historic Landscape, Parks and Gardens. Policy VOE 2 relates to development proposals within or affecting the Area of Outstanding Natural Beauty and the Area of Outstanding Beauty. It states that development that would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation will not be permitted. The text to the policy indicates that consideration will be given to both the impact of development within these designations, and the impact of development on their setting, and that important views to and from the AONB and AOB will be protected.

- Welsh Government policy and guidance

Planning Policy Wales and TAN 8 provide the strategic policy framework for assessing wind energy development and contain some specific guidance on the detailed consideration of landscape and visual impact to assist local planning authorities determine planning applications. TAN8 Annex D states that within SSAs, the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development.

- Responses on the application

Llanrhaeadr Community Council have commented that no rigorous assessment of the visual impact has been undertaken, and they urge the Council not to permit development until this robust evidence is in place.

- Assessment

Factually, the application involves a minor resiting of two turbines within a site with a commenced consent for 16 turbines of 100m height, spread over a large area next to the Tir Mostyn wind farm. The proposed locations are respectively 30m and 49m from their originally approved locations. The base height of the relocated turbines would be 5m and 0.5m higher than those of the turbines in their approved positions.

In respecting the Community Council's comments, given the revisions which are actually involved in the proposal, Officers' conclusions are that the resiting of the two turbines such short distances from their approved positions would have negligible

additional or adverse landscape and visual impact on top of that which would arise from the construction of the windfarm in accordance with the 2009 permission. Discussion with the Council's Landscape Consultant confirms there would be limited purpose in insisting on additional photomontages and wireframe representations as the changes would be imperceptible at the distances from which these are taken. The turbines would be visible in the context of 14 other turbines in a large windfarm development spread over more than 2 km, and they would be sited in virtually identical locations to those approved when seen from most public viewpoints around the site. The rotor diameters of the two turbines remains as previously approved. The 2009 permission shows the consented locations of the turbines and that these are spaced approximately 300 – 400m apart, distances which would be maintained with the proposed revised siting, meaning there would be no issue of turbines appearing visually cramped up against each other. It is relevant that the relocation would avoid more extensive groundworks which in themselves would be likely to have a more visible physical impact. Having regard also to the significant distances from the nearest residential properties, it would be genuinely difficult to conclude the revisions are of any significance in terms of landscape and visual impact. Officers consider their relocation as proposed would have no perceptible additional impact on the locality, Snowdonia National Park or the Clwydian Range and Dee Valley AONB.

7.2.4. Noise

LDP Policy VOE 9 requires due consideration of impacts of wind energy development on the surrounding area and community

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that local planning authorities should ensure noise-generating development does not cause an unacceptable degree of disturbance, but in some instances it may be acceptable to allow noise-generating activities near to noise sensitive receptors.

ETSU-R-97 is the industry standard for the Assessment and Rating of Noise from Wind Farms, and is cited in TAN 8 as the relevant guidance on good practice. In May 2013, the Institute of Acoustics published 'A good practice guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise' (IOAGPG) which Officers consider is also material.

The Llanrhaeadr Community Council have commented on the potential impacts on noise from the proposed resiting of the two turbines. They are concerned that the proposed changes will have a potentially significant negative impact of noise from the turbines, that current assessments will no longer be valid, and no rigorous assessment of noise impact has been undertaken.

- Assessment

In acknowledging the comments of the Community Council, the application does not involve additional or larger turbines on the site. The revisions involve the limited physical relocation of already consented turbines and the distances to the nearest residential property would remain at some 1500m. The applicants have provided information indicating the calculated noise levels at residential properties and this has been assessed by the Public Protection Officer. The conclusion is that the resiting of the two turbines would not give rise to any significantly different noise impacts than would arise from the operation of the turbines in their approved locations, and there are no objections raised. The remaining conditions imposed on the original planning consent, which set clear limits on the noise levels from the turbine scheme still apply to the development. It is not considered there is any justifiable basis for resisting the proposals on grounds of additional noise impacts.

7.2.5. Shadow flicker

LDP Policy VOE 9 requires due consideration of impacts of wind energy development on the surrounding area and community.

There is technical guidance on shadow flicker issues in National Policy Statement for Renewable Energy Infrastructure (EN-3) and the Practice Guidance for Renewable and low Carbon Energy. These suggest that assessment should only be carried out where

turbines are proposed within 10 rotor diameters of an existing occupied building, and that only properties within 130 degrees either side of north relative to the turbines can be affected in the UK. The likelihood of shadow flicker occurring and the duration of such an effect depends on a range of factors, including the time of the year, the size of the turbine, the direction and speed of the wind and the relative cloud cover.

- Assessment

The proposed rotor diameter of all the approved turbines on the site is 90m, therefore the potential impacts should only be experienced up to 900m from the nearest turbine location, and only then within 130 degrees either side of north. Turbines 12 and 14 are well outside this distance from the nearest anticipated affected property Ty Newydd – turbine 12 at 1500m and turbine 14 at 1700m.

It is concluded that the proposed variation to the siting of the two turbines would have no additional shadow flicker impacts.

7.2.6. Residential amenity

LDP Policy VOE 9 requires due consideration of impacts of wind energy development on the surrounding area and community, which can include effects on residential amenity.

Matters of noise impact and shadow flicker are residential amenity considerations, and are dealt with under separate sections of the report. The other main consideration is the acceptability of turbine development in terms of effects on residential visual amenity, which involves assessment of the potential impact on the living conditions within and immediately around a dwelling, i.e. an individual's enjoyment of a property.

- Assessment

The application does not involve additional or larger turbines on the site. The minor resiting of the two turbines is not considered likely to give rise to any significantly different residential amenity impacts than would arise from the operation of the turbines in their approved locations. As mentioned above, the nearest residential property is some 1500m from the turbines involved.

7.2.7. Ecology

The general requirements to consider the impact of development on biodiversity interests are set out in PPW Chapter 5, TAN5, and LDP policies VOE 5 and VOE 9.

VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests. This reflects policy and guidance in Planning Policy Wales (Section 5.2). Specific to wind turbine development is policy VOE 9 which requires specific assessment / explanation of impact on biodiversity and mitigation proposals.

NRW and the Council's Biodiversity Officer raise no objections to the proposed variation to the siting of the turbines.

Having due regard to the above, there do not appear to be any adverse ecological impacts anticipated which would give rise to concerns over the variation to condition 3.

7.2.8. Highways

LDP Policy VOE 9 requires due consideration of the effect of wind energy development on the surrounding area and community, which would include transport impacts. There are no representations raising concerns over the highway impacts of the proposals.

There are minor revisions necessary to the position of the access tracks to accommodate the relocation of the two turbines. These are considered to be of no consequence to the highways implications of the development.

7.2.9. Aviation and Radar

The impact on aviation and radar equipment is material to the determination of wind turbine applications.

The air safeguarding bodies have previously raised no objections to the grant of permission for the 16 turbines on the site. The turbines would be the same height as previously approved, only 30m and 49m from their originally approved locations. The air safeguarding implications from the variations sought are not considered to be significant.

7.2.10. Heritage interests

Policy VOE 1 of the Local Development Plan seeks to protect designated areas from development which would adversely affect them. This includes statutory designated sites for nature conservation, local areas designated or identified because of their natural landscape or biodiversity value, sites of built heritage, historic landscape, parks and gardens. VOE1 reflects the principles in Planning Policy Wales Section 6 which stresses the role of local planning authorities in securing the conservation of the historic environment, whilst ensuring it accommodates and responds to present day needs.

- Assessment

There are no concerns expressed over the implications of the resiting of the 2 turbines on the archaeological and historic environment. It is not considered that the proposals would give rise to impacts in excess of those which would arise from the completion of the consented scheme.

7.2.11. Hydrology / Water Supply/ Flooding/ surface water

LDP Policy VOE 9 requires due consideration of impacts of wind energy development on the surrounding area and community, which would include potential effects on hydrology, water supply, flooding and surface water drainage.

Natural Resources Wales, the Council's Flood Risk Manager and the Council's Public Protection Officers raise no concerns over the impact of the resiting of the turbines on these interests.

Again, it is not considered that the proposals would give rise to impacts in excess of those which would arise from the completion of the consented scheme.

8. SUMMARY AND CONCLUSIONS:

8.1. The application seeks agreement to a minor variation to the siting of 2 of the 16 turbines granted planning permission in 2009, in order to address site-specific problems from ground conditions and topography.

8.2. Whilst the Llanrhaeadr Community Council have concerns at the potential noise and landscape / visual impact of the proposals, investigation of these matters indicates the additional impacts would in reality be negligible and that there is no reasonable basis to resist the application. Indeed it is suggested that the resiting of the two turbines would help to avoid more extensive groundworks which in themselves would have more significant landscape and visual effects, so there is a clear environmental gain from consenting to the variations sought.

RECOMMENDATION: - GRANT

Condition 3 of planning permission 25/2007/0565 shall be worded as follows:

Other than in respect of Turbines 12 and 14, the location of the turbines and ancillary structures such as anemometer masts, and the access tracks, shall be in the positions indicated on the submitted plans, subject to variation of the indicated position of any turbine or any track on the plans by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation

arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority. Turbine 12 and its relevant spur road shall be permitted a 30m micro-siting allowance and turbine 14 and its relevant spur road shall be permitted a 49m micro-siting allowance.

NOTES TO APPLICANT:

You are reminded that this approval relates solely to a variation to the wording of condition 3 of planning permission 25/2007/0565 and that all the conditions and advisory notes contained in that planning permission are still applicable to the development of the wind farm turbine and associated works.